

Strengthening financial supervision in Europe

Background

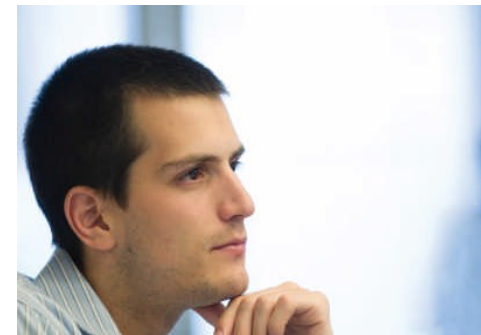
The ongoing financial crisis has questioned the efficiency of EU supervisory framework, which remains fragmented on national level, and has demanded strong legislative measures to overcome the shortcomings. Consequently, a group of reputable high-level experts chaired by the former Managing Director of the International Monetary Fund, Mr. Jacques de Larosière was formed to make recommendations for enhancing financial supervision in Europe. Between March and June 2009 the report of the de Larosière group was consequently reviewed and endorsed by the European Council, the European Commission (the “Commission”) and the Ecofin Council. In addition, two open public consultations on the overall package were conducted between March and July 2009 inviting all interested parties (financial services providers, regulators, supervisors, the public at large) to comment on the suggested reforms. After collecting and analysing more than one hundred, predominantly supportive, opinions the

Commission adopted in September 2009 a package of proposals for Regulations. Those proposals foresee the creation of a European Systemic Risk Board (“ESRB”) along with three new institutions, the so-called European Supervisory Authorities (“ESAs”).

European Systemic Risk Board (“ESRB”)

The Commission’s proposal for Regulation provides for a completely new authority in EU framework – the ESRB. It will be responsible for macro-prudential oversight on the EU financial system, thus aiming at mitigation and prevention of systematic risks. The ESRB will not have any binding powers as its role is envisaged as mostly “reputational” – it will perform high-quality risk assessment across the entire EU financial system and may issue risk warnings and recommendations. The addressees of said non-binding measures may be the Community as a whole, any Member State, the ESAs, as well as national supervisory authorities. The main decision-taking body of the ESRB will be

the General Board which will comprise, amongst others, all Governors of national banks, the Chairpersons of the ESAs, the President of the European Central Bank, etc.





European Supervisory Authorities (“ESAs”)

The Commission has proposed the establishment of a European System of Financial Supervisors consisting of a network of national financial supervisors working in cooperation with the ESAs. ESAs are not new to EU framework – they are created by transforming the existing European supervisory committees¹ in the following authorities:

- European Banking Authority (“EBA”);
- European Securities and Markets Authority (“ESMA”);
- European Insurance and Occupational Pensions Authority (“EIOPA”).

¹ These being the Committee of European Banking Supervisors (CEBS), the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) and the Committee of European Securities Regulators (CESR).

The new authorities will have significantly increased powers compared with CEBS, CEIOPS, and CESR.

Structure and powers of ESAs

It is envisaged that all ESAs will have as main decision-making body a Board of Supervisors comprising the heads of the national supervisors and the Chairperson of the relevant ESA. The Chairperson will preside over meetings of the Board of Supervisors and the Management Board of the ESA, and will represent the ESA. Each ESA will have an Executive Director in charge of its day-to-day management.

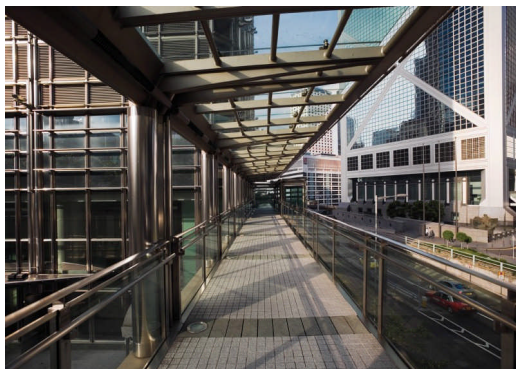
ESAs will generally assume all tasks of the existing European supervisory committees but will also be empowered with broader authority and will have increased responsibilities. The key powers vested to ESAs will include *inter alia*:

- Rules drafting – ESAs will elaborate draft technical standards and rules which will be endorsed by the Commission in the form of regulations or decisions;
- Supervisory powers – ESAs will oversee the coherent application of Community legislation by national supervisory authorities, may investigate cases, issue recommendations and, as a matter of exception, adopt decisions with

direct binding effect on national supervisory authorities;

- Dispute settlement – a special settlement mechanism is envisaged where ESAs will play an active role in overcoming disagreements between national supervisory authorities; in addition, ESAs will have strong coordination powers in emergency situations;
- Analytical functions – ESAs will perform analyses and assessments of market developments;
- International and advisory role – ESAs may enter into arrangements with international organisations and the administrations of third countries. Furthermore, ESAs may, upon request or on their own initiative, provide advice to the European Parliament, the Council and the Commission or publish opinions, including with respect to the assessments of cross-border mergers and acquisitions.

Although ESAs will have similar structure and responsibilities, each one of them will be regulated by separate Regulation taking into account the differences in their objectives, scope of action, specific powers, etc.



Adoption of the legislative package and possible effects

It is expected that the Regulations proposed by the Commission will be adopted swiftly and the new authorities will start functioning in 2010.

The possible effects of the new financial supervision structure in Europe could be:

- Further harmonisation of the financial supervisory standards and rules within the EU;
- Unification of the practices and procedures applied by national regulators, which, probably even at an early stage, will be visible in the practices of the Bulgarian National Bank, and the Financial

Supervision Commission in Bulgaria;

- The ESAs supervisory powers, in particular the possibility to issue binding decisions, will guarantee for equal treatment and requirements for supervised entities in all Member States;
- Facilitation of cross-border financial activities across the EU; and ultimately
- Greater stability and competitiveness of the financial markets in Europe.

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